

VZCZCXRO3925
PP RUEHPA
DE RUEHUJA #1836/01 2800628
ZNY CCCCC ZZH
P 070628Z OCT 09
FM AMEMBASSY ABUJA
TO RUEHC/SECSTATE WASHDC PRIORITY 7161
INFO RUEHOS/AMCONSUL LAGOS PRIORITY 2048
RUEHSA/AMCONSUL JOHANNESBURG 0088
RUEHZK/ECOWAS COLLECTIVE
RHEBAAA/DEPT OF ENERGY WASHDC
RUCPDOG/DEPT OF COMMERCE WASHDC
RUEATRS/DEPT OF TREASURY WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 ABUJA 001836

NOFORN
SIPDIS

DEPT PASS USAID/AFR/SD FOR CURTIS, ATWOOD AND SCHLAGENHAUF
DEPT PASS TO USTDA-PAUL MARIN, EXIM-JRICHTER
DEPT PASS TO OPIC FOR STEVEN SMIT
DEPT PASS USTR FOR AGAMA
JOHANNESBURG FOR NAGY
USDOE FOR GEORGE PERSON
TREASURY FOR TONY IERONIMO, ADAM BARCAN, SOLOMAN AND RITTERHOFF

E.O. 12958: DECL: 02/04/2029

TAGS: [EPET](#) [ENRG](#) [EINV](#) [ECON](#) [ETRD](#) [PGOV](#) [NI](#)

SUBJECT: (C) EXXONMOBIL MD DISCUSSES THE STATUS OF NIGERIA'S PROPOSED PETROLEUM INDUSTRY BILL

Classified By: Charge de Affairs Dundas C. McCullough for reasons
1.4. (b & d).

11. (C) SUMMARY. ExxonMobil's local MD told Charge that not much had happened on the PIB since the public hearings on July 27-30. ExxonMobil has had productive meetings with the Ministry of Finance and the Central Bank of Nigeria both of which realize what is at stake if foreign investment in the oil industry slows, he said, and the Ministry of Petroleum Resources has also shown some flexibility on the dividend tax, non-fiscal issues, and the expected timetable for implementation. The industry has deliberately adopted a low-key approach to build a constituency of key stakeholders, such as GON officials, state governors, unions and contractors, who have an interest in a more balanced bill. The MD did not request direct USG action, does not believe the bill would pass if voted on today, and predicted that the likelihood of passage would diminish as the 2011 national elections approach. END SUMMARY.

Current Status of the PIB

12. (C) ExxonMobil Mobil Producing Nigeria Chairman and Managing Director Mark Ward met with visiting Charge, Economic Counselor (notetaker) and Econoff in the company's Lagos offices on September 124. The Charge asked Ward for his view of the GON's proposed Petroleum Industry Bill (PIB), its current status and whether he thought there had been movement during the previous month. Ward responded that the PIB was currently in both houses of the National Assembly, which was in recess, and that not much was expected until the legislators returned in early October. In short, things are as they were at the end of the public hearings that took place July 27-30. ExxonMobil is trying to determine what the legislative process will be when the National Assembly returns on October 6.

13. (C) Exxon Mobil has also had several engagements outside the National Assembly, including with the Ministry of Finance, the Central Bank of Nigeria (CBN), the Federal Inland Revenue Service (FIRS), the International Monetary Fund (IMF), and the World Bank, with the purpose of educating these parties on the perceived problems with the PIB. ExxonMobil has made some inroads with the Ministry of Finance, Ward said, with the ministry conceding that what they have been told by the rest of the GON is not the case. Ward summarized that the PIB is "very complicated," that the GON is still adding to it, and that it is no wonder that people are confused about its content. He then cautioned that if ExxonMobil is right about its concerns, "the industry will come to a standstill, which they can not

afford."

Problems with the Proposed Bill

14. (C) Ward said the Minister of Petroleum Resources Rilwanu Lukman has "great vision" but he does not want to be bothered with the details. He got the IMF involved. He also got the Oil Producers Trade Section (OPTS) from the Lagos Chamber of Commerce and Industry involved and created a commission to work with the OPTS but it took six months to get the commission started. The overall problem is the Ministry's attitude of, "We're right, you're wrong." A major disconnect is in the area of fiscal modeling, i.e., the payment of taxes. Some progress was made during the previous week when Presidential Special Advisor on Petroleum Matters Dr. Egbogah agreed to find a way to handle the dividend tax. There also appears to be some movement in the handling of non-fiscal issues. Another disconnect has to do with dispute resolution. The industry does not want the proposed method which is also counter to the constitution. The GON now recognizes that it can not circumvent the constitution without changing it. Finally, there is the issue of timing. The GON believes the establishment of the PIB-proposed Integrated Joint Ventures (IJVs) can be implemented in six months but the industry believes it will take two to three years and that this would require a massive negotiation effort with limited government resources. The GON now understands that instead of mandating a time for the completion of the process, it will take time to get the job done.

Cohesion within the Industry

ABUJA 00001836 002 OF 003

15. (C) The Charge asked if the industry was united in its approach to the PIB. Ward replied that there was close alignment within the industry on the big, strategic issues. However, each company will be meeting with the Oil and Gas Sector Reform Implementation Committee (OGIC) individually and this has the potential to fracture the industry. For example, each company has a different production portfolio, such as onshore versus offshore oil production and gas processing which could create different rates of taxation depending on when the transfer of ownership takes place. Each company could want a different method of taxation. Ward continued that there are a half dozen such examples of the need for fine tuning between the companies. He summarized that the industry would be meeting during the following week to see where the companies were aligned or misaligned going forward.

Alignment with Nigerian Oil Companies

16. (C) The Charge asked if the industry had been able to work with Nigerian oil companies in their negotiations with the GON. Ward answered that there was no misalignment, but that there were differences due to size and scale. One difference between the international and Nigerian companies has to do with how long a company can hold on to a property before relinquishment takes effect. The Nigerian companies see early relinquishment as an opportunity while the international companies see it as a threat. Nevertheless, there are limits to how far the Nigerian companies can push early relinquishment because all companies will be subject to the same bill once it is passed.

Hidden Agenda

17. (C) The Charge inquired if Ward thought the PIB was being driven by a Nigerian desire for individual profiteering, or if there were a nationalist or even a regionalist northern agenda as some critics speculate. Ward said the Minister of Petroleum Resources had tried to increase opportunities or provide access for certain beneficiaries before but had failed. The current effort to create opportunities could be seen as either profiteering or nationalism, but it was not new. The stakes are higher this time because there are a couple of key players in the OGIC who have a lot at stake to not back down. As

for a possible northern agenda, some see the PIB as an opportunity to direct more resources to southern states and communities, but the GON wants to leave things the way they are. This would undercut the argument for the existence of a northern agenda. This does not mean that Lukman is not trying to obtain buy-in to increase northern support for the PIB. The recent proposal to create the University of Petroleum Technology in Kaduna instead of upgrading the aging Petroleum Training Institute in Wari was an administrative misstep by Lukman and his colleagues.

Potential Benefits

¶18. (C) Ward acknowledged the PIB's potential benefits. Converting the current joint ventures into fully integrated structures and independently functioning entities that could go to the bank and Qindependently functioning entities that could go to the bank and borrow money would be a good thing for the industry. The current joint ventures are underfunded because the GON is not able to provide the necessary equity to support its share of the required investments and the joint ventures are not independent enough to obtain the necessary bank debt. The PIB can resolve this problem by creating IJVs that are cleanly commercial, bankable and transparent with effective dispute resolution. For its part, the National Assembly will not want to create autonomous IJVs that do not need government funding as this would result in a loss of control.

Looking Ahead

¶19. (C) Ward said the industry's strategy is to build a constituency, but not a public constituency. It will focus on educating key individuals in the GON and the National Assembly. It will not focus now on influencing public opinion because the Nigerian media are too vulnerable to GON pressure to take a contrary/IOC view on the PIB, and would balk at even selling advertising space to the IOCs. For

ABUJA 00001836 003 OF 003

example, there was a lot of international press after the July 27-31 public hearings, but there was nothing comparably substantive in the local press, Ward said. Individual companies are focused on key stakeholders, such as governors, in their areas of operation, because governors have an interest in continued revenue streams and do not want the companies to fail. The individual companies are also working with unions and contracting companies who also do not want the companies to fail.

¶10. (C) The Charge asked if the PIB would pass if it came to a vote tomorrow and if a positive vote would be easier or harder as the 2011 national elections approached. Ward was confident that the PIB would not pass if a vote were taken and thought that a positive vote would be even harder as the elections approached. "Delay is good," he concluded. The Charge also asked about current oil production, given the fact that the Minister of Petroleum Resources had recently claimed that production had reached two million barrels per day after the success of the GON's amnesty plan in the Delta. Ward said production was just over one million barrels per day, with some continuing improvement in the Delta. The amnesty could also allow illegal bunkering to return to its earlier level of 250,000 to 300,000 barrels per day, since bunkering took place on land, where production had been interrupted.

The USG's Role

¶11. (C) Ward said there was a sense that the USG was looking for a way to support the negotiations by promoting greater transparency, etc. However, transparency is not the issue. The real issue for the USG is security of supply if production stops. There is a natural decline in production in the Nigerian basin of 20 percent per year, meaning that the industry has to invest 20 percent per year to maintain current production. Another issue is access to the president. President Yar'Adua seldom has the facts, the information he gets is controlled, and no one from the industry has been able to see him for the last nine months. Yar'Adua is also ill and has little time to process the information he receives, so his views are

skewed. Minister of Finance Mansur Mahtar and CBN Governor Sanusi Lamido Sanusi "get it" because they will be the most affected if production stops. Consequently, that is where the industry is directing its greatest efforts.

¶12. (C) COMMENT. There is a significant amount of strategic planning that is taking place within the industry that is resulting in a coordinated outreach to key stakeholders. The large gap that existed between the industry and the GON just a few months ago may be starting to close, with the Ministry of Finance having begun to raise its fiscal concerns within the GON and the Ministry of Petroleum Resources having begun to show some flexibility on key issues. The Embassy will continue to look for opportunities to focus the GON's attention on investment, production and revenue issues.

¶13. (U) This cable has been coordinated with ConGen Lagos.

MCCULLOUGH
QMCCULLOUGH